

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. CR-15-126-C-5
)	
CURTIS ALLEN ANTHONY,)	
)	
Defendant.)	

ORDER

Defendant, a prisoner appearing pro se, has filed a Notice of Appeal which the Court will construe as a request for Certificate of Appealability (“COA”) to appeal this Court’s denial of his 28 U.S.C. § 2255 Motion to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody.

Defendant is entitled to a COA only upon making a substantial showing of the denial of a constitutional right. See 28 U.S.C. § 2253(c)(2). Defendant can make such a showing by demonstrating that the issues he seeks to raise are deserving of further proceedings, debatable among jurists of reason, or subject to different resolution on appeal. See Slack v. McDaniel, 529 U.S. 473, 483 (2000) (“[W]e give the language found in § 2253(c) the meaning ascribed it in Barefoot [v. Estelle], 463 U.S. 880, 893 (1983)], with due note for the substitution of the word ‘constitutional.’”). “Where a district court has rejected the constitutional claims on the merits, . . . [t]he petitioner must demonstrate that reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” Id. at 484.

Here, Defendant has failed to satisfy this standard. As the Court set out in detail in its Order denying the § 2255 Motion, Defendant failed to timely file his § 2255 Motion. For this reason, the Court finds that the claims raised by Defendant are not debatable among jurists of reason.

Accordingly, Defendant's Notice of Appeal which is construed as a request for a Certificate of Appealability (Dkt. No. 509) is DENIED.

IT IS SO ORDERED this 11th day of September, 2020.



ROBIN J. CAUTHRON
United States District Judge